

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

-----  
JILL POWERS and PATRICK  
POWERS, Individually and on behalf of  
a class of consumers similarly situated,

Plaintiffs,

-vs-

FIFTH THIRD MORTGAGE CO., et al.,  
Defendants.  
-----

:  
: CASE NO. 1:09 CV 2059  
:  
:  
:  
:

: ORDER ADOPTING REPORT AND  
: RECOMMENDATION AND DENYING  
: PLAINTIFFS' MOTION FOR CLASS  
: CERTIFICATION  
:  
:

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This matter was referred to Magistrate Nancy A. Vecchiarelli for a Report and Recommendation ("R&R") on the Plaintiffs motion for class certification pursuant to Fed. R. Civ. P. 23. In a thorough review of the record, the Magistrate Judge's well reasoned R&R advises the Court deny the motion for class certification of this action, brought by the Plaintiffs pursuant to the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601, et. seq. ("RESPA"). (Doc. 85). After careful review of each of the arguments presented by the parties, the R&R concludes that two over-arching factors mitigate against class certification: (1) determining which putative class members may avail themselves of RESPA is a highly individualized undertaking not susceptible to a common proof; and, (2) determining which of the 15,000 to 17,000 potential class members are covered by RESPA would create an unmanageable class action "well

beyond the court's resources to solve." (Doc. 85, pp. 38).

No party has objected to the Magistrate Judge's R&R. Therefore, this Court will presume the parties are satisfied with the determination. Any further review by this Court would be a duplicative and inefficient use of the Court's limited resources.

Thomas v. Arn, 474 U.S. 140 (1985); Howard v. Secretary of Health and Human Services, 932 F.2d 505 (6th Cir. 1991); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

Accordingly, the Magistrate Judge's R&R is adopted. The Plaintiffs' motion for class certification pursuant to Rule 23 is denied.

IT IS SO ORDERED.

/s/Lesley Wells  
UNITED STATES DISTRICT JUDGE

Date: 29 August 2011